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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,854	09/22/2003	Hosei Matsuoka	243051US90	4307
22850	7590	03/27/2008	EXAMINER	
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				DAVENPORT, MON CHERI S
ART UNIT		PAPER NUMBER		
2616				
NOTIFICATION DATE			DELIVERY MODE	
03/27/2008			ELECTRONIC	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/664,854	MATSUOKA ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	MON CHERI S. DAVENPORT	2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) \_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) \_\_\_\_ is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ .                                     |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____ .   | 6) <input type="checkbox"/> Other: ____ .                         |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims **23, 25 27, 29-33** rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claims **23, 25 27, 29-33**, now requiring “switching, at the first packet communication terminal, between a unicast and a multicast mode of operation based upon the evaluation result, said step of switching including sending a switch instruction message to said second packet communication terminal from the first packet communication terminal instructing the second packet communication terminal to also switch between said unicast and multicast mode of operations”. This is subject matter which was not described in the original specification; therefore, new matter. Neither applicant has pointed out where in the original specification support for the subject addition can be found.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 23, 25, 27,29-33** rejected under 35 U.S.C. 103(a) as being unpatentable over Miller et al ( US Patent 6,873,627) in view of Focsaneanu et al. (US Patent 5,991,292).

Regarding **Claims 23, 25 27, 29-33** Miller et al. disclose a packet communication method for packet communication between a first packet communication terminal and a second packet communication terminal (figure 3, sender and receivers), comprising:

maintaining, at the first packet communication terminal, a database of potential network addresses corresponding to said first packet communication terminal( see figure 5, see col. 8-9 lines 63-2, a forwarding table, consisting of multicast group members);

evaluating, within the first packet communication terminal, a communication link relative to a predetermined criterion and generating an evaluation result( see col. 8-9 lines 64-7, a forwarding table is used to determine whether a destination address associated with a parameter must be converted) ; and

switching, at the first packet communication terminal, between a unicast and a multicast mode of operation based upon the evaluation result, said step of switching including sending a switch instruction message (formats)to said second packet communication terminal from the first packet communication terminal instructing the second packet communication terminal to also switch between said unicast and multicast mode of operations (see col. 4 lines 30-34, see also col. 4-5, lines 64-16, a set of forwarding rules enable the server to switch unicast or multicast packets into unicast or multicast packets, the switch message is the response to the address and formats of all senders and receivers on the computer network),

the unicast mode of operation in each of the first and second packet communication terminals including transmitting and receiving via a network address corresponding to a communication link which meets said evaluation criterion( see col. 4, lines 31-34, unicast is used as defined in the art, is used as required(criterion)), and

the multicast mode of operation in each of the first and second packet communication terminals including transmitting and receiving via all network addresses in the corresponding databases of potential network addresses located in the first and second packet communication terminals( see col. 4, lines 31-34, multicast is used as defined in the art, is used as required(criterion)).

However Miller et al. fails to specifically point out sending database add and delete messages from the first packet communication terminal to the second packet communication terminal to enable the second packet communication terminal to maintain, at the second packet communication terminal, a local database of potential network addresses corresponding to said first packet communication terminal as claimed.

Focsaneanu et al. teaches sending database add and delete messages from the first packet communication terminal to the second packet communication terminal to enable the second packet communication terminal to maintain, at the second packet communication terminal, a local database of potential network addresses corresponding to said first packet communication terminal (see col. 14, lines 53-65, the customers service profile database which is continuously updated, maintains the availability of particular servers on the network, continuously updated reads on sending add and delete messages).

Therefore it would have been obvious to one with ordinary skill in the art at the time the invention was made to combine Miller et al. invention with Focsaneanu et al. because Focsaneanu et al. invention allows a simpler, more transparent delivery of information on an end-to-end basis( see col. 4, lines 22-24).

4. **Claims 24, 26 and 28** rejected under 35 U.S.C. 103(a) as being unpatentable over Miller et al. in view of Famolari et al. (US Patent Application Publication 2002/0105926).

Regarding **Claims 24, 26, and 28** Miller et al. in view of Focsaneanu et al. discloses everything as applied above (*see claims 23, 25, and 27*).

However Miller et al. fails to specifically point out measuring intensities of radio waves of networks detected by the first packet communication terminal as claimed.

Famolari et al. teaches measuring intensities of radio waves of networks detected by the first packet communication terminal (see paragraph [0020], lines 11-14, information error by allowing information comparison and channel strength( radio wave intensity) evaluation in order to drop weak IP network connections, this network measures the channel strength which is radio wave intensity).

Therefore it would have been obvious to one with ordinary skill in the art at the time the invention was made to combine Miller et al. invention with Famolari et al. invention because Famolari et al. invention allows soft handoff in CDMA IP networks which utilize IP multicasting(see [0014], lines 2-6).

#### ***Response to Arguments***

5. Applicant's arguments with respect to new claims 23-33 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MON CHERI S. DAVENPORT whose telephone number is (571)270-1803. The examiner can normally be reached on Monday - Friday 8:00 a.m. - 5:00 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Seema S. Rao/  
Supervisory Patent Examiner,  
Art Unit 2616

MD/md  
March 14, 2008